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Myanmar News

Notification No. 55/2017 of
the Ministry of Commerce
on Import and Sale of
Farm Equipment

November 2017

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Table of Content

I. Introduction

Page 2

II. Trade Restrictions

Page 3

III. Import and Distribution of Farm Equipment

Page 3

Annex

Page 4

I. Introduction

On 17 November 2017, in exercising the powers conferred by section 13 (b) Export and Import Law (2012), the Ministry of Commerce issued Notification No. 55/2017, granting permission to foreign-owned Joint Ventures to import and distribute farm equipment.

Comment Luther: *Under the current legal regime, a company is defined as “foreign” if even one (1) share is held by a foreigner or foreign-owned corporation.*

Kindly note that a new Companies Law has been approved by the Myanmar Parliament and may be enacted in the near future. According to the most recent draft, a company would only be considered “foreign” if a certain percentage of shares is held by a foreign shareholder.

Please find below a short summary of the most important changes.

II. Trade Restrictions

Since late 2001, most trading activities were prohibited for foreign investors, both through limited approval of imports under the Export and Import Law 2012, as well as the enforcement of the unofficial ban on trade by the Ministry of Commerce.

In 2015, the Ministry of Commerce eventually started to change its policy, allowing selective relaxation of this general prohibition. In January 2015, the Ministry of Commerce announced a limited lift of its trade prohibition by permitting joint ventures operating car showrooms, the import and sale of new automobiles. In November 2015, the Ministry of Commerce allowed the import and trade of specific products, namely fertilizers, seeds, pesticides and hospital equipment, followed by a similar notification for construction materials in 2016. In May 2015, the Management Committee of the Thilawa Special Economic Zone followed by allowing certain wholesale trading activities to 100% foreign-owned companies incorporated in the newly established Thilawa Special Economic Zone.

The recent enactment of the Myanmar Investment Law 2016 is expected to further lift the ban on trade. On 10 April 2017, the Myanmar Investment Commission issued a list of restricted investment activities (Notification No. 15/2017), according to which retail and wholesale trading services shall be generally allowed. Such trading activities shall, however, require the approval of the Ministry of Commerce. The new Wholesale and Retail Regulations have however not yet been issued.

For further details, please refer to our June 2017 and November 2017 – News Alerts.

III. Import and Distribution of Farm Equipment

Pursuant to Notification No. 55/2017 and with effect from 17 November 2017, foreign-owned Joint Ventures shall be granted permission to trade – i.e. import and distribute – the following farm equipment in Myanmar (further detailed in an included list of Harmonized System Codes of the relevant goods):

- Pipes and pipe joints (4" and below);
- Tires for farming vehicles;
- Cutting edges-machines;
- Pumps (4" and below) and their spare parts; drying machines; insecticide spray container and spraying equipment; and
- Farming vehicles.

For a permission to trade, the foreign-owned Joint Ventures shall apply with the Ministry of Commerce and submit the following documents:

- Permit to Trade (Form 1);
- Return of Allotment of Shares (Form 6);
- Particulars of Directors, Managers and Managing Agents (Form 26);
- Exporter-Importer Registration Certificate; and
- Bank Statements.

Permission will be granted according to the equity ratio granted at the time of incorporation, upon which the foreign-owned Joint Venture may engage in wholesale and retail of farm equipment.

Annex

Unofficial Translation

The Government of the Republic of the Union of Myanmar
Ministry of Commerce
Notification No. 55/2017
17 November 2017

In exercising the powers conferred by Section (13b) of the Import Export Law, the Ministry of Commerce of the Republic of the Union of Myanmar hereby issues this Notification with the approval of the Union Government Cabinet.

Granting permission to Foreign-Owned Joint Ventures (FJV) to Import and Distribute Farm Equipment

1. With the objectives of enabling the purchase and utilization of good quality brands at true prices and of supporting increase of agricultural productivity in the implementation of modern mechanized agriculture in the agriculture sector of the Union, FJVs are granted permission with effect from the date of this Notification to import and distribute (trade in) the farm equipment shown attached with HS Codes.
2. FJVs shall comply with the following terms and conditions in the trading of farm equipment:
 - a. The FJV concerned shall have a permit to trade.
 - b. Permission will be granted according to equity ratio of FJVs granted at the time of incorporation.
 - c. FJVs may engage in wholesale and retail of farm equipment.
 - d. Form 6/26 issued by the Directorate of Investments and Company Administration, together with Bank Statements shall be attached to application for Exporter-Importer Registration Certificate.
3. In import and distribution of farm equipment, FJVs shall comply with the provisions contained in the laws, rules and directives issued by relevant departments.
4. In import and distribution of farm equipment, FJVs will be permitted in the same procedure as domestic business persons.
5. The list of goods permitted for FJVs to import will be amended as required.

(by) Dr Than Myint
Union Minister
Ministry of Commerce

Letter No.: SaKa-11/2-18/2017(16)

Date: 17 November 2017

Selected HS-Code lines of farm equipment which FJVs may trade in

| Sr. | Chapter | Description | HS-Code lines |
|--------------|---------|---|---------------|
| 1. | 39 | Pipes and pipe joints (4" and below) | 44 |
| 2. | 40 | Tires for farming vehicles | 1 |
| 3. | 82 | Cutting edges-machines | 6 |
| 4. | 84 | Pumps (4" and below) and their spare parts; drying machines; insecticide spray container and spraying equipment | 99 |
| 5. | 87 | Farming vehicles | 8 |
| Total | | | 158 |

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